

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA

Plaintiff,

vs.

JEROD J. OLIVERIUS,

Defendant.

4:11CR3029

MEMORANDUM AND ORDER

Defendant has moved to continue the trial currently set for August 6, 2012. (Filing No. 52). As explained in the motion, the defendant's newly appointed counsel needs additional time to review discovery and prepare for trial. The motion to continue is unopposed. Based on the showing set forth in the motion, and explained in court during a hearing held today, the court finds the motion should be granted. Accordingly,

The government has orally moved for the return of the hard drive provided to defendant's prior counsel for expert review on behalf of the defendant. The defendant does not oppose the government's motion.

Accordingly,

IT IS ORDERED:

- 1) Defendant's motion to continue, (filing no. 52), is granted.
- 2) The trial of this case is set to commence before the Honorable Richard G. Kopf, in the United States Courthouse, Lincoln, Nebraska at 9:00 a.m. on November 5, 2012, or as soon thereafter as the case may be called, for a duration of four (4) trial days. Jury selection will be held at commencement of trial.
- 3) Absent a substantial showing of good cause, no further continuances of the trial will be granted. The mere change of counsel representation will not be considered good cause to further continue the trial of this case.

- 4) Based upon the showing set forth in the defendant's motion and the representations of counsel, the Court further finds that the ends of justice will be served by continuing the trial; and that the purposes served by continuing the trial date in this case outweigh the interest of the defendant and the public in a speedy trial. Accordingly, the additional time arising as a result of the granting of the motion, the time between today's date and November 5, 2012, shall be deemed excludable time in any computation of time under the requirements of the Speedy Trial Act, because despite counsel's due diligence, additional time is needed to adequately prepare this case for trial and failing to grant additional time might result in a miscarriage of justice. 18 U.S.C. § 3161(h)(1) & (h)(7).
- 5) The government's motion for return of the hard drive, (filing no. 55), is granted.
- 6) Defendant's prior counsel, John Vanderslice, shall arrange for the return of the hard drive provided to defendant's prior counsel for expert review by Daniel Meinke, and any other member of Computer Forensic Resources, Inc. on behalf of the defendant; specifically, the forensically sound image of the digital media (one (1) Seagate 160 gb hard drive located in a Compaq Presario laptop computer and one (1) Seagate 500 gb external hard drive) seized by the Lincoln Police Department on February 7, 2011, from 715 West "S" Street, Lincoln, Nebraska, and containing the alleged child pornography contraband at issue in the above-referenced case.
- 7) A copy of this memorandum and order shall be provided to defendant's prior counsel, John Vanderslice.

July 13, 2012.

BY THE COURT:

s/ Cheryl R. Zwart
United States Magistrate Judge